

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS**

CRAIG CUNNINGHAM, Plaintiff, v. STUDENT LOAN ASSISTANCE CENTER, LLC SL DOC SERVICING LLC EC LENDING LLC STUDENT ASSISTANCE CENTER LLC JOSHUA MEYERS, RYAN MCAWEENEY AND NEIL BILLOCK, Defendants.	§ § § § § § Civil Case No.: <u>3:16-cv-02880</u> § § § §
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PLAINTIFF'S FIRST AMENDED COMPLAINT

1. The Plaintiff in this case is Craig Cunningham, a natural person who was a resident of Davidson County, Tennessee at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, Ste 248, Nashville, TN 37211.

2. Defendant Student Loan Assistance Center, LLC may be served via its registered agent, Corporate Service Company, 2710 Gateway Oaks Dr., Suite 150 N., Sacramento CA 95833.

3. Defendant SL Doc Servicing LLC may be served via its registered agent, Legal Inc. Corporate Services, Inc., 5850 Granite Parkway, Suite 215, Plano, Texas 75024.

4. Defendant EEC Lending LLC may be served via its registered agent, Corrine Lott, at 4875 Viewridge Ave, San Diego, CA 92123.

5. Defendant Student Assistance Center, Inc. may be served via its registered agent, Ryan McAweeney, 4241 Jutland Drive, Ste. 304, San Diego CA 92117.

6. Defendant Joshua Myers is a natural person and may be served at 3895 Clairemont Drive #308-101, San Diego CA 92117.

7. Defendant Ryan McAweeney is a natural person who may be served at 4875 Viewridge Ave., San Diego CA 92123.

8. Defendant Neil Billock is a natural person who may be served at 333 Orange Ave., Coronado CA 92118.

JURISDICTION

9. Jurisdiction of this court arises as the acts arose in this district.

10. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, as this action arises under the TCPA, which is a federal statute.

11. This Court has personal jurisdiction over Defendants because Defendants conducts significant amounts of business within this District and at least one is headquartered in this District.

12. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant conducts significant amounts of business within this District.

FACTUAL ALLEGATIONS

13. In 2015 and/or 2016, the Plaintiff received multiple phone calls to the Plaintiff's cell phone which connected the Plaintiff to an agent. These calls were unsolicited by Plaintiff. The calls were either made by the corporate entity defendants individually or by corporate entity defendants acting as alter egos of the corporate entities. At least nine phone calls were made, but plaintiff believes that as many as two thousand calls may have been attempted. Of the calls that plaintiff can currently document, two calls were made to the plaintiff on 7/14/2015 from 858-500-8984, and the remainder of the calls emanated from 858-223-2653 and were made on 12/11/2015, 12/10/2015, 12/14/2015, 12/15/2015, 12/22/2015, 1/4/2015, and 1/5/2015.

14. The calls started with a pre-recorded message after several seconds of dead air time.

15. When the calls connected to an agent, the Plaintiff was told that he was called by the defendants. In every call, the Plaintiff noticed a delay between answering the phone and the call connecting with a live person, which is characteristic of an automated telephone dialing system.

16. This is just one of many harassing calls the Plaintiff has received and as Defendants is just content to knowingly call what could be wrong numbers, the Plaintiff is therefore subjected to multiple harassing phone calls.

17. The Defendants also used an automated telephone dialing system to call the Plaintiff's cell phone in violation of the TCPA, 47 USC 227(b) and 47 USC 227(c)(5) as codified under 47 CFR 64.1200(b)

18. The calls violated 47 USC 227(b) as the calls were automated and placed to the Plaintiff's cell phone without the Plaintiff's consent and without an emergency purpose.

19. The calls violated 47 CFR 64.1200(b) as the artificial or pre-recorded message failed to state at the beginning of the message the identity of the business, individual, or entity that is responsible for initiating the call. In fact, no name was given for the entity placing the call and even the agents only stated who they were calling from after the Plaintiff asked repeatedly.

20. Additionally, in the above referenced telephone calls, Defendants and their agents falsely claimed to be agents of and calling on behalf of the U.S. Department of Education when in fact the calls were being placed for the benefit of Defendant corporate entities and individuals.

21. These calls were knowingly and willfully placed and the Defendants had or should have ascertained they were calling the wrong person.

ACTUAL DAMAGES

22. Plaintiff has suffered actual injury as a result of Defendant's telephone calls, including, but not limited to:

- Reduced Device storage space;
- Data usage;
- Plan usage;
- Lost time tending to and responding to the unsolicited texts;
- Invasion of Privacy and loss of concentration.

CAUSE OF ACTION:

Violations of the Telephone Consumer Protection Act (TCPA)

1. Plaintiff hereby incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
1. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls without the Plaintiff's consent to the Plaintiff's Cell phone.

PRAYER

- A. WHEREFORE, Plaintiff, Cunningham respectfully prays and requests that judgment be entered against Defendants as follows:
- B. Statutory damages of \$3,000 for each phone call
- C. \$1,000,000 in actual damages
- D. Pre-judgment interest from the date of the phone calls.
- E. Injunctive relief enjoining Defendants from placing any further telephone calls to Plaintiff's mobile telephones.
- F. Attorney's fees for bringing this action as incurred;

- G. Costs of bringing this action; and
- H. For such other and further relief as the Court may deem just and proper.

Dated: February 15, 2017

/s/ Aaron K. Mulvey_____

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